

LINDA LINGLE
GOVERNOR



CARLITO P. CALIBOSO
CHAIRMAN

JOHN E. COLE
COMMISSIONER

LESLIE H. KONDO
COMMISSIONER

Telephone: (808) 588-2020
Facsimile: (808) 588-2066

STATE OF HAWAII
PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
465 S. KING STREET, #103
HONOLULU, HAWAII 96813

e-mail: Hawaii.PUC@hawaii.gov

August 27, 2008

Catherine P. Awakuni
Executive Director
Department of Commerce and Consumer
Affairs
Division of Consumer Advocacy
P.O. Box 541
Honolulu, Hawaii 96809

P.A. Nicholas
Molokai Public Utilities, Inc.
Wai'ola O Moloka'i, Inc.
MOSCO, Inc.
Molokai Properties Limited, dba Molokai
Ranch
745 Fort Street Mall, Suite 600
Honolulu, Hawaii 96813

Brian T. Moto, Corporation Counsel
Jane E. Lovell, Deputy Corporation Counsel
Department of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

Bronster Hoshibata
A Law Corporation
Margery S. Bronster, Esq.
John T. Hoshibata, Esq.
Jeannette H. Castagnetti, Esq.
2300 Pauahi Tower
1003 Bishop Street
Honolulu, Hawaii 96813

Re: Docket No. 2008-0115 – In Re. Molokai Public Utilities, Inc., Wai'ola O Moloka'i, Inc.,
and MOSCO, Inc. for Temporary Rate Relief

Dear Parties:

For your information and review, enclosed please find copies of public comments and
correspondence received by the commission in the above-referenced docket.

If you have any questions, please do not hesitate to contact me at 586-2019.

Sincerely,

A handwritten signature in cursive script, reading "Kaiulani Kidani Shinsato".

Kaiulani Kidani Shinsato
Commission Counsel

KKS:cp

Enclosures



pau hana ohana
<pauhanamolokai@yahoo.com>
m>

08/26/2008 03:55 PM

Please respond to
pauhanamolokai@yahoo.com

To Hawaii.PUC@hawaii.gov

cc Ed Kushi <ed.kushi@co.maui.hi.us>, Margery Bronster
<mbronster@bhhawaii.net>, Catherine Awakuni
<catherine.p.awakuni@dcca.hawaii.gov>, Peter A Nicholas
<peter@molokairanch.com>

bcc

Subject Important letter missing from PUC website

Aloha

It seems a relevant letter is missing from the PUC website.

I understand that the letter is from Molokai Properties Limited (MPL), a party in the PUC proceedings, to Mayor Charmaine Tavares, and is dated July 10, 2008.

The letter is signed by Peter A. Nicholas, Executive Director.

The relevancy of the letter is that there is currently speculation of what MPL's intentions are come August 31, 2008. In his July 10 letter to Mayor Tavares, Mr. Nicholas strongly infers that MPL's utilities will continue in operation should the PUC approved the rate increase the PUC is seeking to allow the utilities to continue operating.

His insight should be reliable considering the fact that besides being Executive Director of MPL, he is the sole officer and director of MPL's three regulated utility companies; Molokai Public Utilities Inc. (MPU), Waiola O Molokai Inc (Waiola) and MOSCO, Inc. MPU and Waiola are water delivery utilities and MOSCO provides wastewater treatment services.

At the time of Mr. Nicholas's July 10, 2008 letter the rates being proposed by the PUC would have required Molokai residents pay MPL and its utility companies on an annualized revenue basis an additional \$461,604 over and above the revenues received by its two water utility companies during 2007.

Mr. Nicholas insisted on more of a rate increase than the PUC was proposing, and on August 14, 2008, the PUC formally approved the approximate rate increase demanded by Mr. Nicholas, which was almost double the annual revenue (\$895,095) than the revenue increase referenced in Mr. Nicholas's July 10 letter to Mayor Tavares.

The PUC gave what Mr. Nicholas demanded for his utility companies, which makes the July 10 letter even more relevant.

Therefore there seems little doubt that Mr. Nicholas will continue operating his water utility companies past the August 31, 2008 deadline he set for terminating water delivery services to the residents of central and west Molokai.

This should put all those at ease who may be speculating on what Mr. Nicholas plans to do come August 31, assuming they are willing to have some faith that Mr. Nicholas was being up and up in stating his intentions to Mayor Tavares in his July 10 letter.

Several weeks ago, Abbey Mayor, the Governor's Director of the Office of State Planning mentioned that "bankruptcy" may provide a way for MPL's utilities to fold up shop on August 31. At the time, Mr. Mayer mentioned that MPL was not

interested in pursuing this option.

At a meeting on Molokai earlier this week attended by several community members and various State and County officials, Mr. Mayer, Chair of the Governor's Molokai Action Team, read from a recent Department of Health (DOH) order. He pointed out that DOH had done its job and "pierced the corporate veil" between MPL and its utility companies, noting that MPL is merely an "alter ego" of its utility companies.

Based on Mr. Mayer's presentation, it appears that without MPL having the veil protection of its land assets, which appraised at \$200 million in 2006, this may give Mr. Nicholas cause to pause if he is deciding whether or not to go the bankruptcy route.

It seems Mr. Nicholas's two water utilities (Waiola and MPU) certainly would qualify for bankruptcy. Waiola's liabilities exceed its assets by \$3,633,240 and MPU's liabilities exceeds its assets by \$1,744,131, mainly due to the fact that Mr. Nicholas's MPL, doing business as Molokai Ranch, has loans out to Mr. Nicholas's Waiola and MPU utility companies in the amounts of \$5,323,839 and \$3,036,989 respectively.

The income statements for the utility companies do not reflect any line item suggesting that any interest or principal payments are being made on these loans.

As mentioned earlier in this email, Mr. Nicholas is the sole officer and director of both Waiola and MPU, as well as, being the President, Executive Director and one of three Directors of MPL. He is also Vice President of GuocoLeisure Limited, the Singapore based billion dollar company which owns 100% of MPL.

But you never know what Mr. Nicholas will do. MPL's business strategies seem to blow with whatever wind prevails for the benefit of GuocoLeisure's Executive Chairman Quek Leng Chan and his company shareholders.

There was some talk at a recent community meeting that Mr. Nicholas has engaged the services of a high profile bankruptcy attorney, who probably does not come cheap.

This sort of flies in the face of Mr. Nicholas's financially-down-and-out, "essentially insolvent" portrayal of his utility companies.

Maybe the new bankruptcy attorney is being paid through GuocoLeisure, the parent company that has advanced money to its subsidiary in the past. (see financial info on GuocoLeisure website...for the last several years its Executive Chairman Tri San Quek Leng Chan has reported in the company's annual report to shareholders that GuocoLeisure's Molokai operations continue to be "cash positive"...a point headlined in a recent the Honolulu Star Bulletin article reporting on GuocoLeisure's sudden business decision to shutdown its Molokai operations.)

Mr. Nicholas has been telling the PUC, the Consumer Advocate, the County of Maui and the lower income families on Molokai that are being burdened with rate increases of up to 178% for water, that his utility companies have no money, or any access to money, to even pursue a permanent rate increase at this time.

What is Mr. Nicholas planning to do six months from now if he has to meet the PUC's August 14 order that "within six months MPU and Waiola shall file an application for a general rate increase with the commission if a third-party is not found to take over the utility systems"?

If Mr. Nicholas doesn't have the money now to file for a general rate increase, where is he going to get the money in six months if his operations are shut down for business reasons.

The PUC has confirmed that the law provides the commission the ability to fine each of the utility companies \$25,000 a day if they defy an order of the PUC. That works out to be \$50,000 a day, \$1,500,000 a month, \$18,000,000 a year.

A PUC spokesperson noted that as far as he could not recollect the PUC ever fining company \$25,000 a day for violating one of its orders.

Then again, the PUC has probably never had to deal with such defiant, foreign controlled companies such a GuocoLeisure, MPL and their private utility companies.

At the July 15 PUC sponsored public hearing held in Maunaloa Molokai, Commission Chair Caliboso seemed to think it was fruitless to fine the utilities because they didn't have the ability to pay the fines.

Mr. Caliboso's conclusion was reached before the DOH rendered its final order concluding that MPL essentially has no "corporate veil" protection for its assets against liabilities created by its "essentially insolvent" utility companies.

How this plays out is anyone's guess. Mr. Nicholas and GuocoLeisure seem to have an unending stack of hole cards to play, which is curious at best, given their not-so-local corporate attitudes.

It's a game of Texas hold'em between the State (DOH and PUC) and Mr. Nicholas and GuocoLeisure, and to this point MPL seems to have prevailed as the big winners.

Back to the letter missing from the PUC website.

Mr. Nicholas's July 10 letter shows a copy going to the PUC.

The letter was also copied to Senator Inouye; Senator Dan Akaka; Representative Mazie Hirono, Ed Kubo, US Attorney; Mark Bennett, Attorney-General; Maui County Councilman Danny Mateo; Abbey Mayer, Director of Hawaii State Office of Planning; Alexis Strauss, US EPA, Region 1X; and Tan Sri Quek Leng Chan, Executive Chairman, GuocoLeisure Limited(100% owner of Molokai Properties Limited, doing business as Molokai Ranch).

Mr. Nicholas, for whatever reason, did not provide a copy of his letter to the Consumer Advocate Catherine Awakuni.

It seems the world has a copy of Mr. Nicholas's July 10 letter.

Hopefully, the PUC will put Mr. Nicholas's July 10 letter on the website so the public will have access to this letter via the PUC's website.

Thank you for any assistance you are able to provide in having the letter placed on the PUC website.

Please call if you have any questions (283-8171)

Sincerely,

DeGray Vanderbilt



pau hana ohana
<pauhanamolokai@yahoo.com>
m>

08/13/2008 06:41 PM

Please respond to
pauhanamolokai@yahoo.com

To Hawaii.PUC@hawaii.gov

cc Kaiulani.K.Shinsato@hawaii.gov

bcc

Subject Ranch giving up crumbs to get big rate increase its wants
from PUC

Aloha Commissioners

Earlier today I sent in some testimony and noted that it appeared the PUC is poised to give Molokai Properties Limited (aka Molokai Ranch) the rate increase it has demanded for its two water companies that will result in additional revenue for MPL of \$894,801, which is a whopping 103.8% more than the 2007 total revenue for the two utilities of \$862,271.

For lower income families in Maunaloa Town and Kualapuu this will mean, according to Chairman Caliboso's calculation, that someone paying \$50 a month for water will now be faced with a staggering \$139 monthly water bill.

I hope this will be noted in the commission's press release.

At a meeting today on Molokai it was revealed that MPL's Peter Nicholas has come to the conclusion that he does need to have the MOSCO sewer utility fees increased from \$44 to \$52.56. (in 2007 according to the commission's own documents, MOSCO made a profit of \$97,000 from operation in 2007). That means Mr. Nicholas has agreed to forgo \$32,357 in annual sewer fee increases (351 customers per Nicholas times \$8.56 times 12 mos.)

So why is Mr. Nicholas being so magnanimous all of a sudden? At today's meeting on Molokai, it was determined that Mr. Nicholas has worked out a deal with the commission to help justify the commission giving MPL the \$894,801 water rate it wants, which is 93.7% more (\$432,997) than the \$461,803 increase rate/revenue the commission has proposed to give MPL.

Not a bad deal, Mr. Nicholas gives up \$32,357 in order to allow the commission to okay an additional rate hike that will result in MPL raking in an additional \$432,997 in revenues that will have to be subsidized by Molokai rate payers.

Good deal for MPL and Mr. Nicholas, lousy deal for Molokai residents.

At today's meeting on Molokai, the conclusion was reached that this deal was worked out between the commission and Mr. Nicholas, with the encouragement of the Governor, because the commission needed to be able to justify approving the staggering rate increase demand being made by Mr. Nicholas.

The consensus was that the commission's news release announcement on tomorrow rate massive rate hike will be justified by noting that based on compromises made by MPL (giving up \$32,357 of additional income to MOSCO Inc. that showed a 2007 profit of \$97,000), the commission has approved A TEMPORARY rate increase for the two MPL water utilities that will generate an additional \$432,997 in revenues.

\$32,357 for \$432,997 ...not bad.

MPL has told the commission if it doesn't get what it wants it will terminate utility services at the end of August despite a commission order telling MPL and the Utilities not to.

If the commission caves in to MPL's rate demand for its water companies, as it appears is going to be the case now that Mr. Nicholas has made a slight concession in his demands, projected revenues for the two water utilities will increase by 103.8% or \$894,801 over 2007 total revenues of \$862,271.

And this will be dumped on Molokai's lower income families to pay thru increase water bills (i.e per Chair Caliboso... the family paying \$50 a month will now pay \$139 a month to MPL and its billion dollar foreign owner GuocoLeisure Limited).

What is wrong with this picture?

Ask the Governor maybe she knows.

The temporary rate increase is for six months but can be extended by the commission. The press release should note that in all likelihood the six months will be extended because it is going to take at least 18 to 24 months to sort through this complex mess that MPL has created for everyone involved.

If the commission sticks to the rate increase its proposed and calls Mr. Nicholas's bluff..... guaranteed he will not walk out and face the fines (\$25,000 a day possible times three, one for each utility). MPL and GuocoLeisure also do not want to create a news story, especially a negative one, that will result from a walkout.

Very few residents are worried that water will not be delivered if MPL walks. Molokai is resourceful...who is going to cut off the water Mr. Nicholas...the Governor...you the commissioners?

Apparently, however, the commission has resigned itself not to call Mr. Nicholas's bluff and let the Governor's friend and ally off the hook at the expense of Molokai residents.

Sad day for government and the Lingle administration.



pau hana ohana
<pauhanamolokai@yahoo.com>
m>

08/14/2008 03:11 PM

To pauhanamolokai@yahoo.com

cc PUC Attorney Lani Shinsato
<kaiulani.K.Shinsato@hawaii.gov>, PUC Commissioners
<Hawaii.PUC@hawaii.gov>

bcc

Subject Fw:PUC approves high rates demanded by Molokai
Properties....

Aloha

Well it seems the PUC is pretty predictable. But the numbers are have been put in a format that is misleading to the media and the public....and actually wrong.

Attached is the PUC's original order proposing that rates increase from \$1.85 per 1000 gallons to to 4.10 for Wai'ola and from \$3.18 per 1000 gallons to \$4.48 per thousand gallons for Moloka Public Utilities.

In that Decision Order attached the PUC notes its proposed ate increases and that that in 2007 Waiola had of \$134,813 and MPU had revenues of \$727,458 in 2007.

But Molokai properties Limited (aka Molokai Ranch) demanded 93.8% more revenue that the PUC proposed and the PUC approved it today.

BUT THE PUC PROVIDED MISLEADING CALCULATIONS IN ITS PREE RELEASE.

New rate approved of \$5.15 for Waiola, as demanded by Molokai Properties, divided by old rate of \$1.85 comes out to be 2.78 times greater. You multiply the Wiaola's revenue for 2007 by 2.78 and use the same time frame and water use assumptions, Waiola's new annualized revenue from the rate increase would be \$374,780 which is an increase of \$239,967 over 2007 revenues.

Applying the same math for MPU: The old rate was 3.18 and the new \$6.04 rate is 1.89 time greater. MPU's 2007 revenues were \$727,458 per the PUC own order attached. \$727,458 multiplied by 1.89 gives the utility an new annualized revenue stream of \$1,374,895 which is \$647,437 higher than its 2007 revenue total of \$727,458.

So the new rates provide a total of \$887,404 in additional revenues for Waiola and MPU (\$239,967 for Waiola and \$647,437 for MPU) NOT THE \$555,397 (\$156,710 for Waiola and \$398,687 for MPU) whichthe PUC notes in its press release today.

\$889,404 verses the PUC's misleading calculation of \$555,397 in increased revenues.....a big difference of \$332,007. What's the explanation?

Chair Caliboso introduced a formula at the July public hearing on Molokai and using that formula residents in Maunaloa and Kualapuu who were paying \$50 a month would see their bill increase from \$50 to \$139 dollars (\$50 times 2.78 the amount of the rate increase from \$1.85 to \$515).

So what's up with the PUC's math.

Only the PUC knows.

--- On Thu, 8/14/08, Kaiulani.K.Shinsato@hawaii.gov
<Kaiulani.K.Shinsato@hawaii.gov> wrote:

> From: Kaiulani.K.Shinsato@hawaii.gov <Kaiulani.K.Shinsato@hawaii.gov>
> Subject: Molokai Press Release
> To: pauhanamolokai@yahoo.com
> Date: Thursday, August 14, 2008, 2:03 PM
> Hi DeGray, per your request, please find attached a copy of
> the press
> release the commission is issuing today in the Molokai rate
> case matter.
>
>
>
>
> Kaiulani Kidani Shinsato
> Commission Counsel
> Public Utilities Commission
> 465 South King Street, Room 103
> Honolulu, HI 96813
> (808) 586-2019 Telephone
> (808) 586-2066 Facsimile
> E-mail: Kaiulani.K.Shinsato@hawaii.gov
>
> Confidentiality: The information contained in this e-mail
> is intended
> only for the personal and confidential use of the
> designated recipients
> named above. This message may be an attorney-client
> communication and, as
> such, is privileged and confidential. If the reader of
> this message is
> not the intended recipient or an agent responsible for
> delivering it to
> the intended recipient, you are hereby notified that you
> have received
> this message in error, and that any review, dissemination,
> distribution,
> or copying of this message is strictly prohibited. If you
> have received
> this communication in error, please notify us immediately
> by reply e-mail
> or by telephone (808/586-2020). Any personal opinions
> expressed in this
> message do not necessarily represent the views and policies
> of the Public
> Utilities Commission.



HAWAII PUBLIC UTILITIES COMMISSION
465 SOUTH KING STREET, ROOM 103
HONOLULU, HAWAII 96813
PHONE: (808) 586-2020 FAX: (808) 586-2066
E-MAIL: Hawaii.PUC@hawaii.gov
WEBSITE: www.hawaii.gov/budget/puc

NEWS RELEASE

For Immediate Release: August 14, 2008

PUBLIC UTILITIES COMMISSION FORCED TO APPROVE TEMPORARY RATE INCREASES FOR MOLOKA'I UTILITIES TO ENABLE TEMPORARY CONTINUATION OF SERVICES

HONOLULU – Taking unprecedented steps to maintain essential water services to West Molokā'i customers, the Hawai'i Public Utilities Commission (PUC) today approved temporary rate increases, subject to certain conditions, for Moloka'i Public Utilities, Inc. (MPU) and Wai'ola o Moloka'i, Inc. (Wai'ola).

MPU's rates will be temporarily increased from \$3.18 per 1,000 gallons to \$6.04 per 1,000 gallons, which is expected to provide MPU with an additional \$398,687 in annual revenues. Wai'ola's rates will rise temporarily from \$1.85 per 1,000 gallons to \$5.15 per 1,000 gallons, which should result in \$156,710 in additional annual revenues for Wai'ola. The increases will be in effect for six months, starting September 1, 2008, unless otherwise ordered by the PUC.

The PUC had also reviewed a rate increase request by Mosco, Inc. (Mosco), a regulated sewer utility serving Kaluakoi customers, but found that an increase was not necessary for the company.

All three utility companies are affiliated with Moloka'i Properties Limited, better known as Moloka'i Ranch, which had informed the PUC in March 2008 that services by these utilities would be discontinued if an entity is not found to take over the operations by the end of August.

Facing a shutdown of vital water and wastewater services to customers in West Moloka'i, the PUC opened this rate proceeding in June in an unprecedented effort to enable MPU, Wai'ola and Mosco to remain in operation until their water and sewer systems can be operated by another entity.

"Under these dire circumstances, the commission has no choice but to approve the temporary rate increases as a stop-gap measure," said Carlito Caliboso, chairman of the PUC. "We need to do what we can to require the utilities to keep operating, at least temporarily, for the sake of the health and welfare of the people of West Moloka'i."

In approving the temporary rate increases for MPU and Wai'ola, the PUC also required that all three utilities file monthly financial reports and bi-weekly status reports addressing the status of transitioning the ownership or operation of the utilities to another entity. If another entity is not found to take over their operations, MPU and Wai'ola are required to file applications for general rate increases with the PUC within six months, so that final rates can be determined.

#

Contact: Kaiulani Kidani Shinsato, Commission Counsel
Phone: 586-2020

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----In the Matter of----)
MOLOKAI PUBLIC UTILITIES, INC.,)
WAI'OLA O MOLOKA'I, INC., and)
MOSCO, INC.)
For Temporary Rate Relief.)

DOCKET NO. 2008-0115

ORDER INSTITUTING A PROCEEDING
TO PROVIDE TEMPORARY RATE RELIEF TO MOLOKAI
PUBLIC UTILITIES, INC., WAI'OLA O MOLOKA'I, INC., AND MOSCO, INC.

FILED
2008 JUN 16 P 3 15
PUBLIC UTILITIES
COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)	
)	
MOLOKAI PUBLIC UTILITIES, INC.,)	Docket No. 2008-0115
WAI'OLA O MOLOKA'I, INC., and)	
MOSCO, INC.)	
)	
For Temporary Rate Relief.)	
<hr/>		

ORDER INSTITUTING A PROCEEDING
TO PROVIDE TEMPORARY RATE RELIEF TO MOLOKAI
PUBLIC UTILITIES, INC., WAI'OLA O MOLOKA'I, INC., AND MOSCO, INC.

By this Order, the commission initiates a proceeding to provide any required temporary rate relief, via a temporary surcharge, to MOLOKAI PUBLIC UTILITIES, INC. ("MPU"), WAI'OLA O MOLOKA'I, INC. ("Wai'ola"), and MOSCO, INC. ("Mosco") (collectively, "Utilities"). In doing so, based on the commission's review and analysis of the Utilities' available financial information, the commission proposes the following temporary rate relief for MPU and Wai'ola: (1) for MPU, an increase in revenues of \$297,965, which is 40.95% more than its 2007 reported water revenues of \$727,458; and (2) for Wai'ola, an increase in revenues of \$163,839, which is 121.50% more than its 2007 reported water revenues of \$134,813. As discussed further herein, because the commission finds that Mosco is still financially viable and operating at a profit, based solely on the limited available information provided to the commission, the commission proposes a 0.00% increase over present rates for Mosco.

The temporary rate relief approved herein shall be effective for a period of six (6) months from the date of an order by the commission approving the increases; unless otherwise ordered by the commission. The commission further directs the parties¹ herein to submit comments, if any, on the proposed temporary rates within five (5) days of the date of this Order.

I.

Background

A.

Utilities

MPL, based on information provided by MPL to the commission, is affiliated with companies that provide utility services on the island of Molokai in the County, three of which -- MPU, Wai'ola, and Mosco -- are regulated by the commission. Details about the regulated utilities are described below.

1.

MPU

MPU, a Hawaii corporation, is a public utility authorized to provide water service in the Kaluakoi area on the

¹As discussed further below, the commission names as parties to this proceeding: the Utilities, Molokai Properties Limited, dba Molokai Ranch ("MPL"), the County of Maui ("County"), and the Department Of Commerce And Consumer Affairs, Division Of Consumer Advocacy ("Consumer Advocate"), an ex officio party to any proceeding before the commission (collectively, "Parties"). See Hawaii Revised Statutes ("HRS") § 269-51; Hawaii Administrative Rules ("HAR") § 6-61-62.

west end of the island of Molokai. MPU was granted a certificate of public convenience and necessity ("CPCN") by the commission in Decision and Order No. 6834, filed on October 29, 1981, in Docket No. 4112. MPU provides drinking and irrigation water to the Kaluakoi Resort, Ke Nani Kai and Paniolo Hale Condominiums, Kaluakoi Villas, Papohaku Ranchlands and Moana Makani subdivisions, and Maui County parks.

2.

Wai'ola

Wai'ola is a Hawaii corporation that is wholly owned by MPL. Wai'ola is a public utility authorized to provide water utility services to residential, commercial, and agricultural customers. Wai'ola was granted its CPCN in Decision and Order No. 12125, filed on January 13, 1993, in Docket No. 7122. Wai'ola services businesses, residences, churches and Maui County Parks located in Maunaloa, Kualapuu, Kipu, Manawainui, and the Molokai Industrial Park areas on the island of Molokai.

3.

Mosco

Mosco, a Hawaii corporation, is a wholly owned subsidiary of Kaluakoi Sewer, LLC, which is an affiliate of MPL. Mosco is a public utility that provides wastewater service in its service area of Kaluakoi on the island of Molokai, pursuant to a CPCN issued by the commission in Decision and Order No. 7141, filed on July 15, 1982, in Docket No. 4444. Specifically, Mosco

operates the wastewater treatment facility located in the Kaluakoi Resort area that services businesses and residents in the Kaluakoi Resort, Ke Nani Kai and Paniolo Hale Condominiums, Kaluakoi Villas, Papohaku Ranchlands and Moana Makani subdivisions.

B.

Planned Termination of Utilities' Services

In late March 2008, MPL, pursuant to its announcement to cease all current business operations on Molokai, met with the commission to discuss the effect of its cessation of business on Molokai on its Utilities. At the meeting, MPL informed the commission that MPU and Wai'ola incurred substantial losses in 2007. MPL further stated that, due to the shutdown of MPL's other operations on Molokai, MPL would no longer be able to subsidize its utility companies, and it was planning for their disposal within six months.

By letter dated May 30, 2008, the Utilities later reduced their timeline for disposing of their assets. In the May 30, 2008 letter, MPL stated:

For a significant period of time, neither Wai'ola nor MPU has generated revenues sufficient to pay its operating expenses. On March 24 of this year, representatives of our parent company, [MPL,] met with the Public Utilities Commission to inform it that MPL would provide the financial support needed to cover these operating deficits only for a limited period of time. MPL sought the Commission's assistance in disposing of Wai'ola and MPU within six months.

Since that meeting, MPL has conducted meetings with Molokai resident associations, the Mayor of the County of Maui and representatives of the State of Hawaii in an effort to transfer the assets and operations of Wai'ola and MPU so that services would not be interrupted. We regret to say that those efforts have been unsuccessful. There is an obvious reluctance of those parties to take on the litigation with respect to water allocations and the other financial burdens associated with the operation of Wai'ola and MPU.

Recently a Supreme Court decision required MPU to re-apply to the State Commission on Water Resources for a permit to operate Well 17. This has confronted MPU with a dilemma. It does not have the funds to make that re-application, although it wishes to comply with the court's directive and to avoid any disruption of operations. This is an unsatisfactory situation that we lack the means to remedy.

While MPL was operating Molokai Ranch, the Ranch used water furnished by Wai'ola and MPU. MPL therefore provided Wai'ola and MPU with the funds necessary to cover the substantial deficit between the utilities' revenues and their operating costs. However, with the closing of the Ranch, Wai'ola and MPU have been advised by MPL that, after August of this year, MPL will cease providing them with funds. This will make it impossible for Wai'ola and MPU to continue in operation after August.

Although we have looked at the possibility of requesting rate increases sufficient to make Wai'ola and MPU self-sustaining, we simply do not have the funds necessary to go through such lengthy and costly proceedings.

We are therefore sending this letter to provide notice to the Commission, the County of Maui, the State of Hawaii and the customers of Wai'ola and MPU that, unless some public or private entity is located to take over the operations of these three companies by the end of August, there will probably be an unavoidable termination of services to those customers. Wai'ola and MPU and Mosco are ready to cooperate fully in

the surrender or transfer of their certificates, and in any transfer of the assets of the companies.' [Emphasis added.]

By letter dated June 5, 2008, the Consumer Advocate requested that the commission not allow the Utilities to terminate the provision of services by the end of August, asserting as follows:

As the Commission is well aware, the [Consumer Advocate] has a statutory obligation to "represent, protect, and advance the interests of all consumers, including small businesses of utility services." Haw. Rev. Stat. § 269-51. Given the Consumer Advocate's role, we are deeply troubled by Molokai Utilities' suggestion that their obligation to serve their customers may be terminated, at their discretion, as a result of their declared lack of sufficient revenues to recover the operating costs for Wai'ola and [MPU]. Because the Molokai Utilities were afforded the exclusive opportunity to provide water and wastewater services in their respective service areas pursuant to the [CPCNs] granted by the Commission, the Molokai Utilities received a benefit from such exclusive rights and accepted the corresponding obligation to provide utility services to their customers. The public utility services provided by the Molokai Utilities are deemed essential to the health and safety of their customers. As a result, their obligation to provide such necessary services cannot be carelessly abandoned, as seems to be suggested by the letter obtained by the Consumer Advocate.

The Molokai Utilities cite hardship associated with their historical operating losses as justification for terminating services. If the Molokai Utilities desire to file applications for general rate increases with the Commission, the Consumer Advocate is more than willing to commit resources to expedite its review of such applications in a timely manner. If such filings are made, the

²Letter dated and filed on May 30, 2008, from the Utilities to the commission, at 1-2.

Molokai Utilities should be required to comply with the Commission's rules governing notice requirements to customers, ensuring that customers are provided their fair opportunity to provide input to the Commission, the Molokai Utilities, and the Consumer Advocate.

The Consumer Advocate respectfully requests that the Commission not allow the Molokai Utilities to terminate the provision of the public utility services for which they are authorized to provide at the end of August, as they suggest. The Consumer Advocate urges the Commission to inform the Molokai Utilities that the Molokai Utilities cannot cease the provision of the public utility services they provide unless and until the Commission approves either a transfer or a surrender of the Molokai Utilities' CPCNs.¹

By letter dated June 5, 2008, the commission ordered the Utilities to continue providing service unless and until the commission approves a transfer or surrender of their CPCNs:

As you know, the Utilities have a duty to provide service to their customers; and, as such, they are required to provide service unless and until the Commission approves a transfer or surrender of their [CPCNs]. While the Commission is cognizant of the Utilities' present financial conditions, it cannot and will not approve a surrender or transfer of the CPCNs unless and until another public or private entity can be found to operate the water and wastewater systems. The Utilities must continue to operate to ensure the health and safety of their customers. The Commission is aware of the attempts made by [MPL] and the Utilities to secure another provider of utility services, and is also aware that the County of Maui, as an existing provider of water and wastewater services on Molokai, appears to be the most viable alternative provider. Nonetheless, until the County or other third party takes over the operation of the Utilities' water and wastewater systems, the Commission expects the Utilities and MPL to take all

¹Letter dated and filed on June 5, 2008, from the Consumer Advocate to the commission, at 1-2.

necessary and prudent action to continue operations.'

In addition, in its June 5, 2008 letter to the Utilities, to facilitate the transition of the Utilities to a third party or parties, the commission directed the Utilities to submit, by June 12, 2008, the following required information and documentation:

- A transition plan for their continued operation beyond August 2008, which "should include a detailed description of what needs to be done to ensure that the Utilities are able to continue to provide service in the absence of a third party assuming responsibility for the systems";
- The financial requirements of each of the three Utilities to be self-sustaining and the impact on the Utilities' ratepayers, including detailed documentation as to the revenue requirements for each Utility, their expenses, and the likely resulting rates that will be required to ensure the continued provision of utility services;
- The amount of money that MPL has been providing to the Utilities over the last two years broken down by month and by Utility;
- A description of all Utility assets, ownership and valuation of the assets and the terms of any conveyance of those assets; and
- With regard to Mosco, an explanation as to why the Utilities have stated that "unless some public or private entity is located to take over the operation of these three companies" "there will probably be an unavoidable termination

'Letter dated June 5, 2008, from the commission to the Utilities, at 1.

of service" to Mosco customers in August.⁵

The Utilities responded to the commission's June 5, 2008 letter by letter dated June 11, 2008. In that letter, the Utilities did not provide a transition plan (or other information requested by the commission), asserting that "[t]he transition plan of the utilities is dependent on the response that we receive from the County of Maui or the State of Hawaii."⁶ The Utilities, moreover, continued their assertions that they lack the financial capacity to continue operations, and that the County is the best entity to take over the Utilities' systems.

In a letter dated June 13, 2008, the commission responded to the Utilities as follows:

By letter dated June 11, 2008, the Utilities responded to the Commission's June 5, 2008 letter stating that they lack the financial capability to provide water and wastewater services. The Utilities, however, failed to provide the information and documentation requested in the Commission's letter. The Utilities also failed to explain why Mosco lacks the financial capability to operate its wastewater system when its revenues appear to exceed its expenses.

Apart from Mosco, the Commission acknowledges as it did in its June 5, 2008 letter that MPU and Wai'ola appear to be financially unable to provide services absent a rate increase. The Commission, however, first raised the issue of the possibility of the Utilities seeking rate increases months ago and the Utilities apparently made the intentional decision to forego seeking rate relief from the Commission. Nonetheless, given the circumstances, the Commission has no choice but to take the unprecedented step of opening

⁵See id. at 2.

⁶Letter dated June 11, 2008 and filed on June 12, 2008, from the Utilities to the commission, at 1.

a rate case proceeding to order a temporary rate increase for MPU and Wai'ola. With appropriate rate relief, the Commission expects the Utilities to continue to provide service until the County or a third party can take over the Utilities' water and wastewater operations. [Emphasis added.]

Also by letter dated June 13, 2008, the commission informed the County that, "[t]o address the financial issues raised by the Utilities as the basis for their inability to continue operations," the commission would be opening a docket to temporarily increase the water rates for MPU and Wai'ola, so that these Utilities would be able to provide uninterrupted water service, temporarily.' The commission recognized in its letter that: a temporary rate increase is only a short-term solution; the commission cannot compel the Utilities to operate in perpetuity; and there is no guarantee that ratepayers can afford the increased rates. As such, the commission stated:

As it is the County's responsibility to ensure that its citizens have access to basic water and wastewater service, the Commission urges the County to act expeditiously to do what is necessary to acquire the water and wastewater systems. While the Commission will do all it can within its authority to seek to ensure that continued provision of water and wastewater service for as long as possible, we ask that the County be ready to take these systems over when the Utilities eventually discontinue providing service.'

¹Letter dated June 13, 2008, from the commission to the Utilities, at 2.

²See Letter dated June 13, 2008, from the commission to the County, at 1.

³Id.

Based on the foregoing background, the commission initiates this proceeding.

II.

Discussion

A.

Commission Authority

The commission is authorized to initiate this proceeding pursuant to several statutes. First, the commission is granted broad regulatory authority by HRS § 269-7, which provides, in relevant part:

(a) The public utilities commission and each commissioner shall have the power to examine into the condition of each public utility, the manner in which it is operated with reference to the safety or accommodation of the public, the safety, working hours, and wages of its employees, the fares and rates charged by it, the value of its physical property, . . . the amount and disposition of its income, and all its financial transactions, its business relations with other persons, companies, or corporations, its compliance with all applicable state and federal laws . . . and all matters of every nature affecting the relations and transactions between it and the public or persons or corporations.

.

(c) Any investigation may be made by the commission on its own motion, and shall be made when requested by the public utility to be investigated, or by any person upon a sworn written complaint to the commission, setting forth any prima facie cause of complaint.

HRS § 269-7(a) and (c) (emphasis added).¹⁰

Similarly, in HRS § 269-6, the commission is broadly vested with "general supervision . . . over all public utilities[.]" More particularly, under HRS § 269-16, the commission is authorized to regulate the rates, charges, and practices of a public utility:

- (a) All rates, fares, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility or by two or more public utilities jointly shall be just and reasonable and shall be filed with the public utilities commission
- (b) No rate, fare, charge, classification, schedule, rule, or practice, . . . shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice to the commission as prescribed in section 269-12(b), and prior approval by the commission for any increases in rates, fares, or charges.

HRS § 269-16(a) and (b).

In addition, under HRS § 269-16(c), the commission may in its discretion, after public hearing, "authorize temporary increases in rates, fares, and charges[.]"

B.

Temporary Proposed Rate Relief

As set forth above in Section I.B., to address the Utilities' alleged financial inability to continue utility services beyond August 2008, the commission deems it necessary in

¹⁰Commission investigatory authority is also set forth in HAR § 6-61-71.

these exigent circumstances to initiate, sua sponte, this proceeding to provide temporary rate relief to the Utilities. The rate increases approved herein are to provide only temporary relief to the Utilities, until the County or a third party is ready to take over the Utilities' systems. Thus, the rate increases approved herein shall be effective for a period of six (6) months from the date of an order by the commission approving the increases; unless otherwise ordered by the commission.

The commission is also concerned about the effect the temporary rate increases will have on ratepayers. Nonetheless, given the circumstances, the commission has no choice but to take the unprecedented step of opening this proceeding and ordering temporary rate increases to ensure the continuation of water and wastewater utility services that are vital to the health and welfare of the residents of West Molokai.

Based on currently available financial information for the Utilities -- specifically, their most recent 2007 Annual Financial Reports filed with the commission, the commission proposes the following rate increases for each Utility:

1.

MPU

MPU may increase its rates, on an interim basis, to such levels as will produce, in the aggregate, \$297,965 in additional revenues (40.95% more than its 2007 reported water revenues of \$727,458). This will result in total revenues of

\$1,025,423, which should cover MPU's regulated operating expenses. The increase will be in the form of a temporary surcharge to be applied to MPU's user and standby charges. Specifically, a surcharge of 40.95% will be applied to the total of a customer's monthly user charge (including water consumption charge, if applicable), which is currently \$3.18 per 1,000 gallons," and standby charge, which varies based on meter size. As stated above, the temporary rate increase for MPU shall be effective for a period of six (6) months from the date of an order by the commission approving the increase; unless otherwise ordered by the commission.

2.

Wai'ola

Wai'ola may increase its rates, on an interim basis, to such levels as will produce, in the aggregate, \$163,839 in additional revenues (121.50% more than its 2007 reported water revenues of \$134,813). This will result in total revenues of \$298,652, which should cover Wai'ola's regulated operating expenses. The increase will be in the form of a temporary surcharge to be applied to Wai'ola's user and service charges. Specifically, a surcharge of 121.50% will be applied to the total of a customer's monthly user charge, which is currently \$1.85 per

"Applying the 40.95% temporary surcharge to MPU's user charge will result in an increase in the user charge, from \$3.18 to \$4.48 per 1,000 gallons.

1,000 gallons,¹² and service charge, which varies based on meter size. As stated above, the temporary rate increase for Wai'ola shall be effective for a period of six (6) months from the date of an order by the commission approving the increase; unless otherwise ordered by the commission.

3.

Mosco

Mosco reports regulated net income of \$97,952, which results in an operating ratio of 47.30%. Consistent with prior commission decisions on operating ratios, Mosco's operating ratio is reasonable. Thus, the commission finds that no rate adjustment is required for Mosco at this time.

C.

Named Parties

The commission names the Utilities and the Consumer Advocate, which is an ex officio party to every proceeding before the commission, as parties to this proceeding. In addition, because MPL is affiliated with the Utilities, and owns property associated with the Utilities' service territories, the commission names MPL as a party to this proceeding.

The affected service territories and customers are part of the County of Maui. Moreover, the County already provides water and wastewater service in other areas on the island of

¹²Applying the 121.50% temporary surcharge to Wai'ola's user charge will result in an increase in the user charge, from \$1.85 to \$4.10 per 1,000 gallons.

Molokai. As addressed in the commission's June 13, 2008 letter to the County, the County has an interest in ensuring that its citizens have access to basic water and wastewater services.¹³ Accordingly, the commission finds good cause to include the County as a party to this proceeding.

D.

Comments on Proposed Rates

Due to the expedited nature of this proceeding, within five (5) days of the date of this Order, the Parties may provide comments on the proposed temporary rate increases, including, if applicable, financial information or documentation that would justify higher (or lower) temporary increases.¹⁴ If a Party seeks higher temporary increases, specific proposals for the increases, expressed in dollar figures or percentages, shall be provided.

E.

Continuation of Services

Pursuant to HRS § 269-7.5 and its legislative history, the commission orders the Utilities to continue to provide services unless and until the commission approves a transfer or surrender of their CPCNs, or otherwise ordered by the commission. Given the interim rate relief to be granted in this proceeding, the Utilities should now be financially capable of continuing operations, temporarily, until the County or a third party takes

¹⁴Also, the commission has been informed that the County is involved with at least one of MPL's unregulated utilities.

over the operation of the Utilities' water and wastewater systems.

F.

Public Hearing

Pursuant to HRS §§ 269-16 and 269-12, the commission will hold a public hearing in this docket on the island of Molokai as follows:

DATE: Tuesday, July 15, 2008
TIME: 10:00 a.m.
LOCATION: Maunaloa Elementary School
128 Maunaloa Road
Maunaloa, HI 96770

The commission will publish notice of the hearing statewide, including publication in The Molokai Times and the Molokai Dispatch. Pursuant to HAR § 6-61-57(1), motions to intervene or participate in this proceeding shall be filed with the commission no later than ten days after the public hearing, or by July 25, 2008.

III.

Orders

THE COMMISSION ORDERS:

1. This proceeding is initiated to provide the proposed temporary rate relief, as set forth in Section II.B, to MPU and Wai'ola.

2. The Parties to this proceeding shall be: MPU, Wai'ola, Mosco, the Consumer Advocate, MPL, and the County of Maui.

3. Within five (5) days of the date of this Order, the Parties may file comments on the proposed rate increases with the commission. If a Party seeks higher temporary increases, specific proposals for the increases, expressed in dollar figures or percentages, shall be provided.

4. The Utilities shall continue to provide utility services unless and until the commission approves a transfer or surrender of their CPCNs to a public or private third party, or otherwise ordered by the commission.

5. Failure to comply with paragraph 4, above, may subject the Utilities (and any other parties deemed to be responsible) to penalties as authorized by law.

DONE at Honolulu, Hawaii JUN 16 2008

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By: John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

By: Leslie H. Kondo
Leslie H. Kondo, Commissioner

Kaiulani Kidani Shinsato
Kaiulani Kidani Shinsato
Commission Counsel

2008-0115.s1

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

P.A. NICHOLAS
MOLOKAI PUBLIC UTILITIES, INC.
WAI'OLA O MOLOKA'I, INC.
MOSCO, INC.
MOLOKAI PROPERTIES LIMITED dba MOLOKAI RANCH
745 Fort Street Mall, Suite 600
Honolulu, HI 96813

HONORABLE CHARMAINE TAVARES
OFFICE OF THE MAYOR
COUNTY OF MAUI
200 South High Street
Wailuku, HI 96793-2155



pau hana ohana
<pauhanamolokai@yahoo.com>

08/14/2008 08:26 AM

Please respond to
pauhanamolokai@yahoo.com

To Hawaii.PUC@hawaii.gov

cc Catherine.P.Awakuni@dcca.hawaii.gov,
Kalulani.K.Shinsato@hawaii.gov, peter@molokairanch.com

bcc

Subject Information for Docket 2008-0115 decision today

Emailed to
Before 8:30 a.m.

Thursday August 14, 2008

The Honorable Chair Carlito Caliboso and Members
Hawaii Public Utilities Commission
465 South King Street
Honolulu, Hawaii 96813

Re: Docket 2008-0115 - ORDER INSTRUCTING A PROCEEDING TO PROVIDE TEMPORARY
RATE RELIEF TO MOLOKAI PUBLIC UTILITIES INC., WAI'OLA O MOLOKAI INC., AND MOSCO
INC.

Dear Chair Caliboso and members.

Good morning.

In my initial email I mistakenly misspelled Chair Caliboso's name for which I
apologize.

Secondly I would like to correct the following paragraph that had an incorrect
percentage listed. I also added some words to make the paragraph clearer. The
amendments to the paragraph are in ramseyer format:

Amended paragraph:

But MPL CEO Peter Nicholas, a man that earns over \$500,000 a year in his dual
management role with MPL and as a Vice President of GuocoLeisure, rejected the
PUC's proposal for a \$461,804 revenue increase, and demanded instead that the
commission offer had to be increased by \$432,977 [103.8%] 93.8% to \$894,801
or he was going to pull the plug on the utility operations despite the
commission advising Mr. Nicholas in writing that an order from the PUC that
until "a third party takes over the operation of the utilities...the commission
expects the utilities and MPL to take all necessary and prudent actions to
continue operations."

End of amended paragraph

Also I would like to suggest for your consideration that if you find it
necessary to give MPL a rate increase based on the limited information you
have received stick to the \$461,804 you originally proposed. This generates
53.6 percent more revenue than the two water company utilities received in
2007.

If MPL feels it needs the additional \$432,977 (93.5% more than the PUC is
offering) it is demanding, let them sell one of the many 15 to 20-acre
non-strategic, residential lots the company still owns at the Kaluakoi resort.
MPL would have to sell only two of the lots for \$217,000 each, far below
market value to cover the \$432,977 extra it is demanding from the commission.

In this way the public (ratepayers) will be paying about half the costs during the interim period and MPL would be paying about half.

Don't succumb to MPL's threats and put the full cost of funding the interim temporary rate period on Molokai's rate payers.

MPL will not walk if you offer this fairer deal. They know that if they do walk, they will be subject to \$25,000 a day fines (\$9,000,000 a year) from the commission (and maybe \$75,000 a day or \$27,000,000 a year if it is determined that each of the three utilities can be fined for violating the commission's order not to terminate services at the end of August).

If the utilities don't pay the fines go after MPL's land assets.

MPL and its parent company do not want the negative publicity and MPL cannot be confident that it will be able to hide its land assets behind the corporate veil.

MPL the utilities have no money or access to money to apply for a rate increase. Who is going to pay the lawyer to represent the MPL if its "corporate veil" defense is challenged?

There are several key ways of looking at whether or not creditors or other claimants may go "behind" the corporate veil and reach the land assets of MPL.

Two of these include the following considerations:

Has MPL and its subsidiary utilities conducted business at arms length in the process by which operating decisions are made, implemented and monitored, in how the roles key figures have been played out, and in the handling of intercompany dealings?

With regard to financing are the utility subsidiaries financially independently, or are they critically dependent on affiliated entities for their existence?

Again, please consider placing \$0 financial burden on Molokai's ratepayers during the interim period. If you feel a need to place some burden on the ratepayers, be fair and place half of it on the ratepayers and half on the utilities and their owner MPL.

It doesn't hurt to urge Mr. Nicholas to accept a more fair disposition of the costs that have resulted from MPL's mismanagement of the utilities.

He may just see the light, be pono and accept your offer.

I have sent a copy of this email to Mr. Peter Nicholas, as well as, to the Consumer Advocate.

Thank you for your consideration.



pau hana ohana
<pauhanamolokai@yahoo.com>

08/13/2008 01:41 PM

To Hawaii.PUC@hawaii.gov

cc

bcc

Subject Testimony Docket 2008-0115 - Pending Rate Hike Burdens
Public

August 13, 2008

The Honorable Chairman and Members of the Hawaii Public Utilities Commission
465 South King Street

Re: Docket 2008-0115 - ORDER INSTRUCTING A PROCEEDING TO PROVIDE TEMPORARY
RATE RELIEF TO MOLOKAI PUBLIC UTILITIES INC., WAI'OLA O MOLOKAI INC., AND MOSCO
INC.

Dear Chair Carliboso and members.

The Public Utilities Commission ("commission") seems poised tomorrow on August 14 to take an action that favors the interests of a large foreign corporation by placing an unreasonable financial burden on Molokai water ratepayers, many of whom consist of financially-strapped lower income families, who are already burdened with higher electric rates, gas prices and other inflated expenses.

But you as commissioners have a choice, and you can choose instead to put the people's interests ahead of those of a foreign corporation that has no aloha for Molokai or our State, and is playing everyone involved in this Docket for a fool.

The commission can step up and reject its proposed rate increase, and/or the highly inflated rate hike demanded by Molokai Properties Limited ("MPL") and stick to its order in which it says it expects MPL and its utilities to continue providing services until a third party is found to operate the utilities.

If the MPL chooses to ignore the PUC order, then the PUC should levy the \$25,000 a day fine allowed under the law (\$9,000,000) a year and look to MPL's 60,000 acres of land holdings (appraised at \$200 million) as security for the payment of the fines.

Although Chair Carliboso told those attending the commission's July 15 public hearing that the PUC could levy the fines, he said he felt the utilities would not have the money to pay the fines...so what's the use?

But MPL has the assets that could be attached to pay the fines. MPL's has little hope of hiding its assets behind the "corporate veil".

The commissioners should be able to recognize this even based on the limited due diligence that has been done, despite the fact that the commission, according to its own order, "has the power (by law) to examine into the condition of each utility including the amount and disposition of its income and all financial transactions, its business relationship with other persons, companies and corporations and all matters of every nature affecting the relations and transactions between it and the public or persons or corporations"

MPL has operated in a positive cash flow position for the last three years (including the losses from some of its utility companies) by selling off

minimal amounts of non-strategic lands. MPL's Chief Executive Officer Mr. Nicholas has confirmed this in writing, and it's been confirmed in the annual reports of MPL's parent company GuocoLeisure Limited.

Mr. Nicholas is also a Vice President of GuocoLeisure.

So what is keeping MPL from selling "minimal amounts" of land in order to keep the utilities operating for the next 18 to 24 months while a resolution of the utility is determined in constructive and orderly process?

Because during these slow economic times (bad for real state sales), MPL has made a business decision to shutdown all its operations (and corresponding expenses) and ride things out until better times roll around so the company is able to realize higher sale value for its lands.

And what's unfortunate for the public is that the commission, the Consumer Advocate and the Governor seem content to buy into the MPL/GuocoLeisure self-serving, irresponsible plan at the expense of Molokai residents.

As noted in the attached news article, the Governor had the following to say about proactive, corporate responsibility in these slow economic times when she spoke at the annual convention of the Hawaii Economic Association last April:

"The business community has an especially important role to play. I am a firm believer that during an economic slowdown, businesses (like MPL) should not hunker down, be stagnant and adopt a defensive mentality. That only exacerbates the situation."

Do you as PUC Commissioners buy into the Governor's logic?

Does the Governor sincerely believe in what she preaches?

If so, the commission and the Governor should hold MPL responsible for funding the costs of running the utility companies during this interim period (by selling a few of lots) while everyone seeks to find a third party willing to assume the operation of the utilities...and not place that financial burden funding the utilities during this interim period on the Molokai ratepayers, many who are lower income families.

Mr. Nicholas has said he will cooperate with all parties in trying to resolve the utility situation...but only his terms.

He is demanding the rate increase he wants (more than 100% higher than the PUC proposes) or threatens to pick up his marbles and go home.

Furthermore, despite the commission writing Mr. Nicholas and advising him that until "a third party takes over the operation of the utilities...the commission expects the utilities and MPL to take all necessary and prudent actions to continue operations", Mr. Nicholas subsequently wrote the Mayor of Maui County and advised her that MPL has "no interest in having an operator taking over running the systems".

Doesn't "running" and "operating" mean the same thing?

I have attached to this email is a copy of the 14-page testimony I summarized at the July 15, 2008 PUC public hearing on the subject docket held in Maunaloa Town on the island of Molokai.

The testimony has a one-page Exhibit A showing that MPL and its utility companies are one in the same, and an 11-page Exhibit B, which is a collection

of conflicting statements and positions from Mr. Nicholas over the past 12 months.

At the July 15 meeting I provided a hard copy of my testimony to each Commissioner.

Also attached is a copy of a recent article taking off the Molokai Dispatch newspaper website regarding the Maui County Council's approval of the hiring of Margery Bronster to represent the County in all legal matters involving Molokai Properties Limited (MPL), doing business as Molokai Ranch, its three utility companies regulated by the PUC, and well as possible legal claims against the State of Hawaii, and other parties, arising from MPL and its utilities companies threatening the cessation of water and wastewater service at the end of August 2008.

In the subject order the Public Utilities Commission (the "commission") the commission states that it is "concerned about the impact of the temporary rate increase will have on the ratepayers"

However, it appears that the commission is poised to take an action, which shows little regards for the ratepayers and instead is intended to further require Molokai ratepayers to further subsidize an irresponsible strategic business plan fostered by MPL and its utility companies aimed at "extracting and maximizing" the investment value of GuocoLeisure Limited's shareholders.

GuocoLeisure is the billion dollar foreign, worldwide investment company that owns MPL as a wholly owned subsidiary. The company's Executive Chairman is Quak Leng Chan, the 314th richest man in the world with a personal net worth of \$2.9 billion dollars (\$2,900,000,000)

According to the subject order, the commission proposed a temporary rate hike that substantially increase the annual incomes of MPL's two water utility companies by \$461,804, a substantial 53.6% increase over the \$862,271 income the two utilities posted in 2007.

But MPL CEO Peter Nicholas, a man that earns over \$500,000 a year in his dual management role with MPL and as a Vice President of GuocoLeisure, rejected the PUC's proposal, and demanded instead that the commission offer had to be increased by 103.8% to \$894,801 or he was going to pull the plug on the utility operations despite the commission advising Mr. Nicholas in writing that an order from the PUC that until "a third party takes over the operation of the utilities...the commission expects the utilities and MPL to take all necessary and prudent actions to continue operations."

At the July 15 public hearing, Commission Chair Carliboso laid out a simple formula by which ratepayers on Molokai, many of which are lower income families, could determine what their new water bill would be.

Under Chair Carliboso's formula, a family in Maunaloa Town or Kualapuu Town currently paying \$50 a month water bill would see its bill increase to \$110 a month under the commission's proposed rate increase, and up to a whopping \$139 a month under the rate increase being demanded by MPL's CEO, who is also the sole officer and director of each of the three utilities subject to Docket 2008-0115.

From \$50 a month to \$139 a month, that's 178% increase. To put this increase into perspective, consider what the Governor's lamented over in her speech to the Hawaii Economic Association earlier this year about the hardship being faced by Oahu ratepayers who had to deal with the financial hardships because their utility bills "rose 84 percent from 2002 to 2007."

An 84% increase over five years is much easier to deal with than 178% increase immediately.

And it looks as though the PUC is leaning towards accepting Mr. Nicholas's demand based on Commissioner Kondo's conclusion at the July 15 public hearing that the rate increase demanded by Mr. Nicholas is "very similar" to the commission's proposed rates, even though Mr. Nicholas is demanding Molokai ratepayers fork out 103% more of an increase than the commission is proposing.

In an unprecedented action, the Commission has proposed a rate increase for the benefit of two water companies owned by Molokai Properties Limited based on less than reliable information provided by Mr. Nicholas and MPL.

Some of the utility companies are wholly owned subsidiaries of Molokai Properties Limited (MPL).

As mentioned, MPL's Chief Executive Officer is Peter Nicholas.

MPL is a wholly owned subsidiary of GuocoLeisure Limited (formerly BIL Investment), a billion dollar foreign investment company headquartered in Singapore.

Mr. (Tri San) Quek Leng Chan is the Executive Chairman of GuocoLeisure. Mr. Chan is the 314th richest man in the world and has a personal net worth of \$2.9 billion dollars (\$2,900,000,000).

Mr. Nicholas is listed in GuocoLeisure 2007 annual report (see GuocoLeisure website for full report) and as member of the company's five member senior management team.

Besides being CEO of MPL, he is also a Vice President of GuocoLeisure. He earns in excess of \$500,000 for his dual management roles.

It's another story about the rich getting richer and the working folks being hammered.

Hopefully, the Governor, the Consumer Advocate and the PUC will do what's right and make MPL responsible for its actions and not allow the financial consequences of MPL's mismanagement, and its irresponsible business strategy, to be borne by the lower income, working families on Molokai.

Respectfully submitted

DeGray Vanderbilt
Box 1348
Kaunakakai, Hawaii 96748
(808) 283 8171
email: pauhanamolokai@yahoo.com

Copies:

Senator Daniel Inouye
Senator Daniel Akaka
Representative Mazie Hirono
Mark Bennett Attorney General
Maui County Council Members
Mayr Charmaine Tavares
Molokai Planning Commission
Margery Bronster

Mahina Martin
Governor Linda Lingle
Abbey Mayer, Director of Office of Planning
Consumer Advocate Catherine Awakuni
Queck Leng Chan
Peter Nicholas
Molokai Dispatch
Molokai Times
Maui News
Honolulu Advertiser
Honolulu Star Bulletin
Pacific Business News



dv puc testimony.doc Exhibit A Officers.xls Exhibit B Nicholas.doc Dispatch Bronster Hired.doc

Testimony of DeGray Vanderbilt

Before the Hawaii Public Utilities Commission

July 15, 2008 at Maunaloa School, Maunaloa, Molokai at July 8, 2008

PUC Docket umber: 2008-0115

Welcome to Molokai Commissioners.

It is really gratifying to see the entire Commission taking the time to come to Molokai and listen to the concerns of our island community. In other PUC jurisdictions, many times a hearing officer will be sent to represent the Commission at public hearings, especially those that are held in hard to get to places.

So thank you for being here with us today.

My name is DeGray Vanderbilt. I am a 30-year resident of Molokai.

I recently stepped down as Chairman of the Molokai Planning Commission. I am a member of the Molokai Water Working Group that is advisory to the State Commission on Water Resource Management. I am a member of the Molokai Chamber of Commerce, and a Director for the Statewide Hawaii Rural Development Council.

I also spent three years as a member of the Molokai Enterprise Community's Land Use Committee, which worked in concert with Molokai Properties Limited (aka Molokai Ranch) to develop the Master Land Use Plan for Molokai Ranch.

I am testifying before you today as a concerned individual.

Today, I would like to try and shed some light on the intentions that are really behind the Ranch's threatened shutdown of its utility services, as well as, try to explain what stimulated the Ranch's "business decision" to shutdown its other operationsan arbitrary decision that was contrary to assurances Mr. Nicholas and Ranch management

had given to Ranch employees a few months earlier that the Ranch would not shut down unless certain events took place...and those events never took place.

We've been told that Molokai Ranch owns six utility companies which provide essential water delivery and wastewater disposal service to residents at the Kaluakoi resort, Maunaloa Town, Kualapuu Town and Kipu.

The two utility companies providing water are losing about \$450,000 a year according to Ranch Chief Executive Officer Peter Nicholas.

Mr. Nicholas says the sewage treatment plant serving residents at the Kaluakoi resort is profitable according to figures he provided to the state Public Utilities Commission (PUC).

Mr. Nicholas has failed to provide detailed financial operations on the remaining three utility companies, two that provide wastewater service for Maunaloa and Kualapuu and one which is the Ranch's Mountain Water System.

Does he want to hang on to the three unregulated utilities, or what?

Mr. Nicholas is currently threatening government officials and residents of our community that if someone doesn't take over the operation of his company's utility operations by the end of August (less than 60 days from now) he is going to pick up his marbles and go home and leave government.... and our community to clean up any mess caused by the Ranch irresponsible, self-serving bailout scheme.

Mr. Nicholas says his company has no more money to fund Molokai operations, yet I understand that the Ranch still maintains offices in the high rent district of downtown Honolulu.

So what do the PUC Commissioners do? They do something unprecedented. Generally, when a company like Molokai Ranch needs a utility rate increase, it is the company that applies for the increase to the PUC....not the PUC applying for a rate increase on behalf the company.

In the Molokai Ranch case, the PUC Commissioners initiated a temporary rate increase which. If approved, will result in Maunaloa and other Molokai residents coughing up an additional \$445,000 to the Ranch for water, assuming it will take at least a year to resolve the utility fiasco in a fair and reasonable manner.

So maybe you'd think Mr. Nicholas would say, "thank you very much Mr. PUC Commissioners....now let's work together and resolve this important issue."

Not Mr. Nicholas.

Mr. Nicholas instead told the PUC Commissioners that his company would not deter him from closing down at the end of August. He then fired back a counter offer saying that he wanted Maunaloa, Kualapuu and other Molokai residents to pay the Ranch at least double what the Commissioners proposed before he would consider keeping the utility companies in operation.

You got to give the guy credit, he keeps selling his "tough guy" image even though few in the public are taking his ranting seriously.

Molokai Ranch has access to all the money it needs to operate the utilities. The company can chose to sell off some of its 60,000 acres, which Mr. Nicholas claimed could be worth as much as \$800,000 million dollars, or he could talk to the foreign corporation that owns the Ranch (the sale of just one of the many Papohaku Ranchlands 15-plus acre lots the Ranch owns at the Kaluakoi resort will cover the utility companies' negative cash flows...each lot worth at least \$400,000)

Molokai Ranch is 100% wholly-owned subsidiary of a billion dollar foreign company based in Singapore called GuocoLeisure Limited (formerly BIL International). Certainly the Ranch's parent company can chip in a little something to help out.

Yet, Mr. Nicholas says there is no money.

In its most recent 2007 company annual report, GuocoLeisure describes itself as (quote) "an international investment company headquartered in Singapore. *The Company's primary role is as an active investor with strategic shareholdings and active investment management aimed at extracting and maximizing shareholder value.*"

Remember these words, *"The Company's primary role is....aimed at extracting and maximizing shareholder value."*

This is what this whole Molokai Ranch shutdown and utility company bail out plan is all about *"extracting and maximizing"* the value of the company's Molokai investment for the sole benefit of GuocoLeisure shareholders without regard, and I repeat, without regard to consequences suffered by the Molokai community as GuocoLeisure attempts to implement its new, self-serving business plan.

In addition to serving as Molokai Ranch's top gun, Mr. Nicholas is also listed in GuocoLeisure's latest annual report as one of GuocoLeisure's five "senior management" people.

Mr. Nicholas is allegedly making over \$500,000 in his dual role as a Vice President for GuocoLeisure and Chief Executive Officer of Molokai Ranch.

GuocoLeisure's head honcho is a man by the name of Mr. Quek Leng Chan. He is Executive Chairman of GuocoLeisure and according to a recent commentary by Howard Dicus, one of Hawaii's most respected business reporters, Howard Dicus, Mr. Chan is worth an estimated \$2.9 billion dollars.

He is allegedly the 314th richest man in the world and the sixth richest in Malaysia.

\$2.9 billion dollars, that's a lot of zeros, that's a lot of "dollars". In fact, Mr. Chan is not only a millionaire, he s a millionaire 2,900 times over.

We're talking serous, big time money here, and yet the County of Maui, the State, the PUC and residents in our community are expected to believe that Mr. Nicholas, Mr. Chan and their profitable, billion dollar company, are not able to come up with enough money to run a few utility companies on Molokai?

So why am I bringing up all those big dollars Mr. Nicholas and Mr. Chan are taking down and the billion dollar net worth of GuocoLeisure?

For one reason.

There seems to be an obvious, simple solution to this whole utility shutdown hoax being played on our community by Mr. Nicholas and Mr. Chan.

Let's assume Mr. Nicholas is earning \$500,000 and the Ranch's three regulated utilities are experiencing a net negative cash flow from operations of approximately \$400,000 each year. (one of the three companies MOSCO is actually making money).

The solution is to write one letter to Mr. Chan and suggest that he fire Mr. Nicholas on the spot, for purely business reasons, the same reasons Mr. Nicholas gave for shutting down the Ranch's operations and giving all the company employees their walking papers.

Next take the \$500,000 freed up by Mr. Nicholas's departure and apply those funds to cover the \$400,000 annual cash flow deficits incurred by the Ranch's utility.

Case closed and everyone can go home and relaxes and life goes on and Mr. Chan has an extra \$100,000 to put in his already extremely deep pockets.

If that doesn't work, then call Mr. Nicholas on his threat to pull out by the end of August if someone doesn't take over its utility companies.

The PUC has ordered Molokai Ranch not to pull the plug on its utility services at the end of August. If the Ranch defies the PUC's order, the law provides for the PUC to bring criminal charges and levy fines up to \$25,000 a day....that's \$9,000,000 a year if the Mr. Nicholas and Mr. Chan continue to play hardball with folks in Hawaii and refuse to get their act together.

No one will have their water shutoff because the state and the County can come in and immediately seize the Ranch's utility assets for emergency reasons and continue essential services for the public, especially if the Ranch is in contempt of an order from the PUC.

Meanwhile, the fines will be mounting up (\$9,000,000 a year), and the PUC can place a lien on the Ranch's land and other assets in order to collect what is owed. Whether the MPI officials receive any jail time for their contempt of a PUC order is unknown at this time.

It's likely that Mr. Chan would prefer to avoid this scenario, which would result in some unwanted, embarrassing media publicity. What would he tell his shareholders in GuocoLeisure annual report, which is due to be published in a couple of months.

Mr. Chan issued a comforting press release recently (see company website) to GuocoLeisure shareholders downplaying the Ranch's total shutdown by stating the following:

"The Company wishes to advise that Molokai Ranch is to cease its tourism and other operations on Molokai Island, Hawaii at the end of March.

As a result of the decision, Molokai Ranch will be shutting down and land-banking the company's assets on its 60,000 plus acre property.

Presently, the aforementioned cessation of operations of MPL is not expected to have any significant financial impact on GL Group for the financial year ending 30th June 2008. **END OF PRESS RELEASE**

You heard it right the Molokai Ranch shutdown "is not expected to have any significant financial impact on GL Group for the financial year ending 30th June 2008."

Thank you very much Mr. Chan.....glad to hear your company shareholders won't be impacted by the Ranch's shutdown.

So why did Mr. Nicholas abruptly announce that the Ranch was shutting down after assuring employees a few months earlier that there would be no drastic layoffs unless there were "further delays" in the Ranch implementing its Master Plan, including the development of La'au Point. (there were no further delays).

Was the Ranch in terrible financial condition?

Not if you read the rosy picture Mr. Chan was painting of his company's Molokai investment to GuocoLeisure shareholders.

In last year's GuocoLeisure's annual report shareholders were told that the company's Molokai investment (and I quote) "*continued to remain cash positive through the sale of non-strategic*" subdivided land. The company also sold a large parcel of agriculture land to Monsanto."

So where did the money from the Monsanto big sale go? What was the sale price?

According to Pacific Business News, Monsanto recently paid over \$31 million dollars for 2,300 acres of agricultural land on Oahu. Monsanto's local business manager, Terry Miller, said 1,600 acres are suitable for farming and the remaining 700 acres are slated to remain as open space.

\$31,000,000 for 1,650 acres of useable farm land is \$19,375 per acre Monsanto paid for the Oahu farmland.

According to the Star Bulletin article reporting the Monsanto sale, MPL provided 1,200 acres of useable farm land to the corn research company. At \$19,375 that would mean MPL pocketed \$23,250,000.

This would cover MPL's \$3.5 million operation losses for almost seven (7) years.

Mr. Nicholas authored a piece in the local newspapers in which he referenced the following to give people what land is worth to MPL and the GuocoLeisure shareholders:

"People should also look to the recent sale of land at the East End to the Maui Coastal Land Trust at \$14,000 an acre. Multiply that by 60,000 plus acres and its \$840 million! Mr. Nicolas was referring to 168 acres of agricultural land that recently was sold by Kainalu Ranch.

If MPL received \$14,000 acres for the 1,200 acres of useable farm land it sold to Monsanto that would resulted in a \$ 16,800,000 sale. And that amount would have covered MPL's annual \$3.5 million dollar operation losses for almost another five years.

So what did Nicholas get from Monsanto and where did all the money go? Why did the Ranch have to shut down so abruptly? Mr. Nicholas said the decision to shut down was purely a "business decision".

Was sacrificing the company employees worth the anticipated windfalls MPL hopes to gain from its newly employed business strategy?

SO WHERE DID ALL THAT MONEY GO. IF APPLIED TO MPL OPERATIONS, THERE WOULD HAVE BEEN NO REASON TO SHUTDOWN. THE COMPANY COULD HAVE REMAINED CASH FLOW POSITIVE FOR ANOTHER 3 TO 6

YEARS ON THE MONSANTO SALE ALONE.?

Possibly the PUC Commissioners could ask MPL's representative to explain the details of the MPL land deal with Monsanto.

If there is a Monsanto representative here today possible that person could explain the details of the MPL/Monsanto land deal. It seems that the press is able to publish information about Monsanto's land deals elsewhere in the state, why is everything such a secret on Molokai.

Back to the GuocoLeisure annual reports.

As in 2007, GuocoLeisure's 2005 and 2006 annual reports also touted the company's Molokai investment as "continuing to remain cash positive".

In the 2006, shareholders were treated to more positive news about their company's Molokai investment with the following from the company's annual report: *"Both occupancy and revenue per available room for the company's two existing tourist establishments, the luxury 22-room Molokai Lodge and the 40-tent platform Beach Village improved significantly over the previous year."*

I'm not making this stuff up. These quotes are right from the GuocoLeisure annual financial reports on the company's website.

So with the big land sales and increase tourism activity, why isn't there any money to continue operating the utilities..... and in light of all the glowing information shared with GuocoLeisure shareholders about the company's Molokai investment...then why did the Ranch shut down operations in the first place?

Peter Nicholas wrote a commentary in the paper in which he stated: "...since January 2006, MPL has sold minimal amounts of property in order to fund its losses and stay cash

positive”

The obvious questions is why can't MPL continue that practice, which is the same strategy employed by other landowner/real estate/development companies such as Maui Land and Pine, Dole Company and Alexander and Baldwin to name a few.

GuocoLeisure Vice President Peter Nicholas said it was purely “a business decision” to shutdown. As I stated earlier in my testimony, GuocoLeisure claims to base its “business decisions” on how best to extract and maximize value for GuocoLeisure shareholders as noted in its most recent annual report..

If you read the GuocoLeisure 2007 annual report closely, it includes a statement made by Mr. Chan, the company's Executive Director, which may be a tip off on what the company had up its sleeve for Molokai.

Mr. Chan wrote, “During 2007, GuocoLeisure continued to maximize value for its Molokai Ranch investment. We will continue to focus on operational deficiencies and improve cash flow for our investment.”

Mr. Chan and Mr. Nicholas were not born yesterday. GuocoLeisure's new business plan for Molokai was an easy one for these two corporate guru's to dream up.

Both Mr. Chan, and his corporate sidekick Mr. Nicholas, have been keenly aware of the pending economic slowdown forecast for Hawaii.

What better way to fulfill Mr. Chan's goals to “maximize value” of the company's Molokai Ranch investment, deal efficiently with “operational deficiencies” and “improve cash flow” than to shutdown Ranch operations completely and wait along the sideline for better economic times to come around.

By shutting down, the company automatically “maximized value” by eliminating all

expenses and land banking its lands while awaiting better economic times..

You don't have to be a rocket scientist to understand the best way to resolve the Ranch's "operational deficiencies" would be to just shutdown those operations.

What better way to "improve cash flow" than to shutdown and get rid of the Ranch's largest expense.....payroll.

And that's the thinking that appears to have gone into Mr. Chan and Mr. Nicholas "pure business decision" to abruptly shut down Ranch operations.

And as concluded the company press release sent to GuocoLeisure shareholders, they would feel no financial impact from the Ranch shutdown.

The Ranch would land bank its 60,000 acres of landholdings and have very little carrying costs while it waited for better economic times to reap higher land sale values.

And by some chance the Ranch is able to complete its scheme to have the County to be responsible for delivering water to Ranch properties, the value of those properties will automatically increase in value substantially....why?.... because the "uncertainty" about water availability, which was an issue with the Ranch in charge, would be gone with the County running the show.

As noted in the PUC's recent Decision and Order, Molokai Ranch would prefer to have the County take over its utility operations.

As Mr. Nicholas said, the Ranch shutdown was decided on purely for business reasons.

The PUC, Consumer Advocate and County should look at resolving the mess created by the Ranch by applying also "business reasons".

Let Mr. Nicholas and his company walk away August 31 and then bring the hammer down on the Ranch and its parent company, GuocoLeisure Limited.

Mr. Chan is a well known international gambler and has got to know his threat to walk at the end of August is a bluff that could cost him to lose a lot of chips that his company would not welcome losing at this time.

Mr. Chan would also inherit a lot of unfavorable publicity for his large international company putting the screws to our small island community.

If the County, or anyone else is willing to take over Molokai Ranch's responsibilities to deliver water and wastewater service, it is going to at least a year, or more, before anyone is able to complete the due diligence necessary to understand what they are getting themselves into.

Ranch management allegedly continues to claim its utility systems are "up to County standards". Anyone living on the west end know this is about as far from the truth as you can get.

At the Kaluakoi resort alone, one half of the resorts dual water delivery system is totally inoperable. Possible the PUC Commissioner could inquire of MPL's representative at the July 1 hearing as to what the company plans to do about this major deficiency.

If the State or County should invest to get the Ranch off the hook, demands should be made for the Ranch to stop holding our community hostage.

The Ranch should be required to sell of lands such as the Kaluakoi hotel and/or the "non-strategic" lands needed by Firstwind for their proposed 350 megawatt wind farm that would generate \$4,000,000 to \$5,000,000 a year in lease rents Firstwind would pay back to the community to fund a variety of community needs.

Of course Mr. Nicholas sees the First Wind proposal differently, a proposal that he incorrectly characterized in a news article he wrote as one that "would provide no economic benefit to Molokai"

Folks like Mr. Chan and Mr. Nicholas talk tough but they don't hold the hammer anymore....they may think they do....but they don't.

Its time for GuocoLeisure, Mr. Chan and Mr. Nicholas to cooperate with government and our community to come up with a "win-win" situation that hopefully will result in the community purchasing the entire ranch property.

If Mr. Chan and Mr. Nicholas want to be made out to be the heroes for reconsidering their ill-conceived business plan and extending their cooperation....Ok fine.... let them be the heroes.

Hopefully a win-win situation can be negotiated between GuocoLeisure and our community. If it is, GuocoLeisure will be able finally unload its Molokai "headache"and Molokai can move on toward becoming a truly sustainable island community, one which will set standards for the rest of the State and elsewhere in these troubled times throughout the world as a result of chaotic economic, environmental and population pressures.

P.S. Where is the Governor? She has been working overtime to purchase lands at Turtle Bay, which she described in her 2008 state of the state speech as the "real Hawaii". Yet she, or her Office of Planning Director Abbey Mayer, has not been willing to lift a finger to assist the Molokai community in its viable effort to purchase the entire Molokai Ranch property. If Turtle Bay is the "real Hawaii", how would the governor characterize Molokai?

Is the Governor willing to declare an emergency situation if the Ranch defies the PUC order and walks out on its responsibilities August 31 so that the Ranch's water systems

and/or other assets can be seized in order to continue providing essential services for the public?

Maybe the Governor and/or Mr. Mayer will be in attendance at the July 15 PUC public hearing to shed some light on this alternative.

END

ATTACHED EXHIBITS:

EXHIBIT A: List of officers and directors of Molokai Properties and its utility companies.

EXHIBIT B Summary of statements and actions attributed to MPL CEO President Peter Nicholas that are contradicting and seem in conflict with MPL's threatened shutdown of its utility companies.

EXHIBIT A - Testimony of DeGray Vanderbilt, Molokai resident at July 15, 2008 hearing before the Public Utilities Commission
Held at Maunaloa School, Molokai - DOCKET 2008-0115 - Information from State Business Registration Office

<u>MASTER NAME/ADDRESS</u>	<u>AGENT NAME/ADDRESS</u>	<u>INCORPORATED</u>	<u>OFFICERS AND DIRECTORS</u>	<u>DATE</u>
MOLOKAI PROPERTIES LIMITED 745 Fort Street Mall, Suite 600 Honolulu, Hawaii 96813	MRL MANAGEMENT LIMITED 745 Fort Street Mall, Suite 600 Honolulu, Hawaii 96813	Hawaii, USA	John Sabas, Vice President Daniel Orodnenker, Secretary Dennis Ikeda, Treasurer Peter Nicholas, Director * Roy Sugiyama, Vice Pres/Director Linda Stew Kim Hoon, Director **	5-Nov-07 5-Nov-07 5-Nov-07 5-Nov-07 5-Nov-07 5-Nov-07
MRL MANAGEMENT LIMITED 745 Fort Street Mall, Suite 600 Honolulu, Hawaii 96813	DANIEL ORODENKER 745 Fort Street Mall, Suite 600 Honolulu, Hawaii 96813	Hawaii, USA	Johan Sabas, Vice President Daniel Orodnenker, Secretary Dennis Ikeda, Treasurer Peter Nicholas, Director Roy Sugiyama, Vice Pres/Director	5-Nov-07 5-Nov-07 5-Nov-07 5-Nov-07 5-Nov-07
MOLOKAI PUBLIC UTILITIES 745 Fort Street Mall, Suite 600 Honolulu, Hawaii 96813	MRL MANAGEMENT LIMITED 745 Fort Street Mall, Suite 600 Honolulu, Hawaii 96813	Hawaii, USA	Peter Nicholas, President/Director Roy Sugiyama, Vice Pres/Director Daniel Orodnenker, Secretary Dennis Ikeda, Treasurer	1-Oct-06 5-Nov-07 5-Nov-07 5-Nov-07
WAI'OLA O MOLOKAI 745 Fort Street Mall, Suite 600 Honolulu, Hawaii 96813	MRL MANAGEMENT LIMITED 745 Fort Street Mall, Suite 600 Honolulu, Hawaii 96813	Hawaii, USA	Peter Nicholas, President/Director Roy Sugiyama, Vice Pres/Director Daniel Orodnenker, Secretary Dennis Ikeda, Treasurer Roy Sugiyama, Director	1-Jul-03 1-Jul-07 1-Jul-07 1-Jul-07 1-Jul-07
MOSCO, INC. 745 Fort Street Mall, Suite 600 Honolulu, Hawaii 96813	MRL MANAGEMENT LIMITED 745 Fort Street Mall, Suite 600 Honolulu, Hawaii 96813	Hawaii, USA	Peter Nicholas, President/Director Roy Sugiyama, Manager/Director Daniel Orodnenker, Secretary Dennis Ikeda, Treasurer	1-Jul-07 1-Jul-07 1-Jul-07 1-Jul-07

* Peter Nicholas is also President and Chief Executive Officer of Molokai Properties Limited, doing business as Molokai Ranch, as well as, a Vice President of GuocoLeisure Limited. Molokai Properties is a wholly owned subsidiary of GuocoLeisure Ltd.

** Linda Hoon is also Secretary for GuocoLeisure Limited, a foreign based investment company headquartered in Malaysia

All of the above companies are engaged in inter-related business activities.

**July 15, 2008: Public Hearing Before The Public Utilities Commission,
Maunaloa, Molokai, Hawaii**

EXHIBIT B to testimony of Molokai resident, DeGray Vanderbilt

Statements released, or approved for release, by Peter Nicholas President and Chief Executive Officer of Molokai Properties Limited (aka Molokai Ranch) during the last twelve months.

Mr. Nicholas is also Vice President of GuocoLeisure Limited and one of the company's top five members of the company's senior management team. He is reportedly earning over \$500,000 a year for his dual management role.



Peter Nicholas

GuocoLeisure Limited is a billion dollar, international investment company headquartered in Singapore, which owns 100% of Molokai Properties Limited.

Mr. Nicholas led everyone to believe that the implementation of the company's Master Plan, including its La'au Point development project, was important to his company's survival and the economic security of his employees.

However, on March 24, 2008, Mr. Nicholas issued a press release stating that the company had made a pure "business decision" to shutdown operations and lay off all its employees.

The shutdown announcement came just three months after Mr. Nicholas approved a memo going out to company employees assuring them that the company was “committed to press on with this process and with the implementation of the Master Plan” and that there would be no layoffs as long as there were no “further delays in the Master Plan Implementation”.

THERE WERE NO FURTHER DELAYS IN THE IMPLEMENTATION OF THE MASTER PLAN BETWEEN THE TIME MR. NICHOLAS APPROVED THE DECEMBER 3, 2007 MEMO GOING OUT TO COMPANY EMPLOYEES AND MR. NICHOLAS’S MARCH 24, 2008 PRESS RELEASE ANNOUNCING THAT THE RANCH WOULD BE SHUTTING DOWN AND LAYING OFF 120 EMPLOYEES.



Yet, Mr. Nicholas decided to shutdown anyway because his company had a new Master Plan for Molokai, one that was in the best interest of the GuocoLeisure shareholders, and a plan that required the company to unload its payroll expenses and also to and unload the operating costs of its utility operation onto County taxpayers or some other government or private entity.

The statements below are in chronological order and reflect how Mr. Nicholas and his management teams at Molokai Properties Limited and GuocoLeisure Limited misled the Molokai community and his company employees on Molokai



July, 2007: “My responsibility to employees, our Molokai Ranch family □ MPL employees. They worry about their futures every day, and while they face turmoil with opposition to the Master Plan, they believe in The Plan and can visualize their futures with confidence.”



July, 2007: “The company, its directors and shareholders are committed to the implementation of the Master Plan....the re-opening of the Kaluakoi Hotel,... and most importantly, an economic future for the company’s current staff and its ahupua’a community of Kaluakoi and Maunaloa.”



July, 2007: "In the event the Master Plan is prevented from being implemented...MPL shareholders will no longer be interested in any other course of action but selling off the property in pieces; an avenue that creates the greatest return for its shareholders."

Nicholas went on to point out that if any community group tried to purchase all or part of Molokai Ranch's property, that group:

"would have to bid against other interested parties such as:

- The Military who have been interested in buying portions of La'au Point for training exercises involving amphibious and airborne landings.
- Russian millionaires who see the island's remoteness as a destination for parties and events that they can't hold in their own countries.
- Wind farm operators who want to build 100 wind turbines on the West End and supply power to Oahu, with little benefit to Molokai itself.
- An Asian syndicate interested in purchasing the Ironwoods golf course for their private and exclusive use.

Mr. Nicholas concluded the following threat:

"And don't think it wouldn't happen or that anyone could stop it"



September, 2007: "A key focus (for our company) was the preparation of a Final Environmental Impact Statement for the 200 subdivided lots at La'au Point on the island's southwestern shoreline prior to a hearing by the State Land Use Commission (November 15 and 16, 2007)"



October 2007 about the company filing its Final Environmental Impact Statement with the State Land Use Commission:

"We are excited about taking this important step forward toward approval of the La'au Point project."

"We knew that the process would be long and not without challenges. However, we have said from the beginning we wanted this EIS to be the best. I am confident the document will meet all the criteria for approval (by the State Land Use Commission at its scheduled November 15 and 16 hearing on Molokai)."



December 2007: "At our recent Land Use Commission hearing on the La'au Point project (held November 15 and 16, 2007 on Molokai)....we withdrew our proposed Final Environmental Impact Statement"

"...we thought it best to withdraw it and submit at a later date"

"Implementation of the Master Plan is the only sure way that MPL can survive in its current form"



December, 2007 (Memo to employees): "By calendar year end (December 2007), we will need to reduce labor costs by at least 10% to fund the current delays in the Master Plan implementation (caused by Molokai Properties withdrawing its Final Environmental Impact Statement from acceptance consideration by the Land Use Commission)."

"If there are any further delays in the Master Plan Implementation, we will be forced to implement more drastic cost reduction measures which may include complete closure of the Kaupoa Camp, the golf course and the implementation of a plan to begin the sale of land"



January 2008 Draft Environmental Impact Statement release by Mr. Nicholas:

“This draft environmental impact statement and all ancillary documents were prepared under my direction or supervision and the information submitted, to the best of my knowledge , fully addresses document content requirement (required under state law)”

“My personal mission is to balance my company’s interest with the interests of the Molokai community.”

“I have complete authority to act for my company (MPL-Molokai Ranch) an the parent company (GuocoLeisure Limited).”



March 24, 2008 Press release from Mr. Nicholas:

Molokai Properties Limited is to shutdown its operations on Molokai at the end of March, and will lay-off more than 120 staff

on the island over the following 60 days.

“The decision (to shutdown) is purely a business one”

“We deeply regret to have taken this step as the main impact will be on our loyal employees”



In a memo Mr. Nicholas authorized be sent to MPL employees just a few months earlier (December 2007), employees were given assurances there would be no further layoffs, others than those the company planned for at the end of 2007, as long as there were no further delays incurred by MPL in the implementation of its Master Plan and La'au Point project.

THERE WERE NO “FURTHER DELAYS”, YET MR. NICHOLAS DECIDED TO PULL THE PLUG ON COMPANY EMPLOYEES AND THE MOLOKAI COMMUNITY.



IF MR. NICHOLAS HAS THE COURTESY TO SHOW UP AT THE JULY 15 PUC MEETING, HOPEFULLY THE PUC COMMISSIONERS WILL REQUEST MR. NICHOLAS TO EXPLAIN WHAT "FURTHER DELAY" , IF ANY, MPL INCURRED THAT CAUSED MPL TO MAKE THE BUSINESS DECISION TO SHUTDOWN ITS OPERATIONS.



March 25, 2008 the day after Mr. Nicholas issued a press release to the media in Hawaii: Linda Hoon, who works for Mr. Nicholas as Molokai Properties Limited's Secretary, was ordered to issue the following press release to GuocoLeisure shareholders (Mr. Nicholas a Vice President of GuocoLeisure as well as President of Molokai Properties) giving the shareholders assurances not to worry about the shutdown of MPL's operations on Molokai....not a big thing and their investment would not be effected financially.

PRESS RELEASE

Announcement on Cessation of Operations of Molokai Properties Limited

GuocoLeisure Limited ("the Company" or "GL") hereby issues the attached statement in relation to its wholly owned subsidiary, Molokai Properties Limited ("MPL") today.

The Company wishes to advise that MPL is to cease its tourism

and other operations on Molokai Island, Hawaii at the end of March.

As a result of the decision, MPL will be shutting down and land-banking the company's assets on its 60,000 plus acre property.

Presently, the aforementioned cessation of operations of MPL is not expected to have any significant financial impact on GL Group for the financial year ending 30th June 2008.

Information About Molokai Properties Limited

Molokai Properties Limited, a wholly owned subsidiary of GL, owns approximately 60,000 acres or 40% of the Hawaiian island of Molokai which is located between the islands of Oahu and Maui.

LINDA HOON

Conclusion: Mr. Nicholas explained his initial intent for the Ranch's Master Plan in a letter to the Molokai community as follows: "My personal mission is to balance my company's interest with the interests of the Molokai community."



It appears as though Mr. Nicholas has decided to implement a new

Master Plan for Molokai Ranch, one that sacrifices the company's employees and is geared to punish the Molokai community by blocking any attempt by the community to move forward on a proactive basis following Mr. Nicholas's decision to shutdown all operations.

END

From Molokai Dispatch website -8/12/08

Council Approves Hiring of Bronster

Monday 8-11-08

Filed Under: Political

Move will challenge Ranch's utility bailout.

Last week Friday, members of the Maui County Council unanimously adopted a resolution introduced by Molokai Council representative Danny Mateo to hire Margery Bronster, one of the state's highest rated attorneys.

QuickTime™ and a
decompressor
are needed to see this picture.

Bronster is to represent the county in all legal matters related to Molokai Ranch's announced bailout of its responsibilities to deliver essential water and wastewater services to residents and business in central and west Molokai.

The Council's Maui meeting was televised live and broadcast back Molokai by Akaku Community Television.

The Council's proactive action was initiated in response to the

unilateral decision by Molokai Properties Limited (MPL), which has been doing business as Molokai Ranch, to shutdown its utility companies on August 31. The purpose of the resolution was to also challenge the initial positions taken by Governor Linda Lingle and several state agencies that expected the county to step up and take over the utility operation if MPL followed through with its threat to walk away.

Mateo, who has been battling a severe case of the flu, was unable to attend the meeting. He is chair of the Council's Policy Committee that approved the resolution going to the full council for consideration.

A report from Mateo's Policy Committee noted that as the county's special counsel, Bronster and her firm would handle legal matters pertaining to Molokai Properties Limited, which is doing business as Molokai Ranch; and the Ranch's three utility companies Molokai Public Utilities, Inc., Wai'ola O Moloka'i, Inc., and Mosco, Inc.

MPL is named along with the three utilities as parties to the PUC proceedings. MPL has objected to being named a party, but documents show that MPL and the utilities are basically the same.

The Committee report noted that Bronster would also be available to represent the county in possible legal claims against the State of Hawaii, and other parties, arising from the Ranch's threat to terminate private water and wastewater operations in August 2008.

Former Molokai Planning Commission Chair DeGray Vanderbilt testified in support of Bronster being hired, noting that in the late 90's, as the State's first full-term female attorney general, she successfully uncovered deceptive and corrupt business practices by the Trustees of the powerful Bishop Estate, which led to all the trustees resigning and one going to jail.

Where the Ranch Stands Now □ MPL currently owns approximately 60,000 acres of land on Molokai that was appraised a couple of years ago for \$200 million dollars.

Most observers feel it will take anyone at least a 18 months to 2 years to complete the due diligence and negotiations required to understand and document what was needed to assume the complex operations of MPL's utilities, which are currently in disrepair and administrative disarray.

For example, Molokai Public Utilities, which delivers water to the Kaluakoi resort, has no permitted water source and no agreement *for transmission of water to the West End*. In addition, half of its dual water delivery system is inoperable.

Nicholas also has made it clear that anyone considering taking over the utility companies would have to lease or purchase the assets needed to operate the utilities. He wrote to the PUC and reported these assets currently have a net book value of over \$12 million dollars.

The PUC's unprecedented proposed rate increase on behalf of MPL's utilities amounts to \$461,497 per year. Nicholas sent a response letter to the PUC rejecting the offer as being inadequate. He threatened to terminate operations unless the PUC provided increased rates to give MPL's utilities \$894,926 a year more in operating income. □ □ **Public Criticism** □ Vanderbilt expressed disappointment to the Council over the fact that the Governor and the PUC appear ready to place the financial burden of subsidizing efforts to work out a solution to MPL's utility mess on the backs of Molokai residents, who are already strapped financially. He said it appeared that the PUC was going to approve the higher rates being demanded by Nicholas.

At the July 15 PUC public hearing, Chairman Carlito Caliboso

announced that by using a simple formula it was easy to determine what the rate increase would mean. Carliboso said that if customer in Kualapuu or Maunaloa is paying \$50 a month water bill, the bill would increase to \$110 under the PUC proposed rate hike.

Applying the Carliboso's formula to the higher rates being demanded by Nicholas, Kualapuu or Maunaloa families would see their bills increase from \$50 to \$139.

At the same July 15 public hearing, PUC Commissioner Les Kondo concluded to those attending that MPL's significantly higher water use rates were "very similar" to the rate increases proposed by the PUC.

The PUC is scheduled to make a decision on the temporary rate increase on August 14.

Vanderbilt said Nicholas should step up to the plate and agree to sell two or three of their 20-acre Papohaku Ranchland residential lots at the Kaluakoi resort to cover the utility operating costs during the interim period when the County, State and MPL attempt to resolve the frenzy created by MPL's unilateral decision to walk away from its utility service responsibilities.

The PUC has issued an order advising MPL that its utilities shall continue "to provide utility services until the commission approves a transfer to a public or private third party" and that non-compliance of the order could result in civil penalties being assessed at \$25,000 per day (\$9 million dollars a year).

In an article published in the Dispatch, Nicholas claimed last year that since 2006 MPL had been selling off "minimal amounts" of non-strategic lands in order have their operations remain "cash flow positive"

Vanderbilt provided portions of GuocoLeisure's 2007 annual

report which reported to shareholders that "Molokai Properties continued to remain cash positive through the sale of non-strategic subdivided land."

The 2007 annual report also noted that GuocoLeisure's primary goal is "active investment management aimed at extracting and maximizing shareholder value".

Vanderbilt opened his testimony by holding up a large, poster-sized color picture (published in a past issue of the Dispatch) showing Ranch employees burning company files in 50-gallon barrels. He said the picture was taken by a Ranch employee shortly after Nicholas issued a press release on March 24 announcing that a "business decision" had been made to shutdown the Ranch's entire operation and "mothball" its land assets until better economic times returned.

Vanderbilt claimed MPL and GuocoLeisure's decision to shutdown was in clear contradiction to the responsibility the Governor said she expected from "true business leaders" during the current trying economic times.

He provided the Council with portions of a speech the Governor gave at the Hawaii Economic Association's (HEA) annual conference, which was held just a few weeks after MPL announced a total shut down of its operations on Molokai.

"The business community has an especially important role to play," the Governor told those attending the HEA conference. "I am a firm believer that during an economic slowdown, businesses (like Molokai Ranch) should not hunker down, be stagnant and adopt a defensive mentality. This only exacerbates the situation"

According to Vanderbilt, MPL is clearly "hunkering down" during these slow economic times, has sacrificed its employees for the benefit of company shareholders, and is now trying to unload its

utility expenses so it has minimal carrying costs (operating expenses) while it land banks its land assets until better economic time roll around,

Despite these facts, the Governor is still backing MPL's corporate interest at the expense of Molokai's working families, he said.

Background on the Ranch □ Nicholas, in addition to heading up MPL, is also a Vice President of GuocoLeisure Limited, the billion dollar foreign investment company that owns 100 percent of Molokai Ranch. For his dual management roles, Nicholas reportedly earns in excess of \$500,000.

In 2007, the three utilities combined lost approximately \$350,000 from operations.

Quek Leng Chan is Executive Director of GuocoLeisure and ranked the 314th richest man in the world with a personal net worth of \$2.9 billion dollars.



"Susan Tai"
<stai@kedb.com>
08/13/2008 05:19 PM

To <hawaii.puc@hawaii.gov>
cc
bcc
Subject FW: Speaker Invitation for 2008 Kauai Renewable Energy Conference

Aloha, Ms. Kane,

Please kindly see the below email and supporting attachments that I emailed to Mr. Carlito Caliboso to invite him to speak at the 2008 Kaua'i Renewable Energy Conference coordinated by Kaua'i Economic Development Board (KEDB). A young lady I spoke to at the Hawai'i PUC's general phone number recommended that I copy you on this invitation as you also handle and direct these types of requests.

I'll follow up with Mr. Caliboso tomorrow afternoon. But please feel free to call or email me in the meantime if you have any questions or need additional information.

Mahalo, in advance, and we hope Mr. Caliboso can participate as a panelist at the 2008 Kaua'i Renewable Energy Conference.

Regards,
Susan

Susan Tai
Director, Kaua'i Economic Dev't Plan
Kaua'i Economic Development Board
4290 Rice Street, Lihu'e, HI 96766
Tel: 808.245.6692 / Fax: 808.246.1089
Email: stai@kedb.com
Website: www.kedb.com

Confidentiality Notice:

This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Susan Tai [<mailto:stai@kedb.com>]
Sent: Wednesday, August 13, 2008 5:16 PM
To: 'ccaliboso@hawaii.gov'
Subject: Speaker Invitation for 2008 Kauai Renewable Energy Conference

Aloha Mr. Caliboso,

I hope this email finds you well. Kaua'i Economic Development Board (KEDB) would like to invite you to speak as a panelist on the "**Legislation & Regulation for Renewable Energy**" panel at our **2008 Kaua'i Renewable Energy Conference**. The Conference is scheduled for Monday & Tuesday, September 8 & 9, 2008, at the Kaua'i Marriott Resort & Beach Club located centrally in Lihu'e, Kaua'i to encourage the greatest number of attendees from our residential and business communities.

As you know, Kaua'i is long overdue for an event of this purpose and proportion. The Conference theme is "**Think Globally, Act Locally**" and is a call-to-action, bringing together

local, state and national energy leaders to explore and develop a path to a sustainable and secure energy future for Kaua'i. The Legislation & Regulation panel will take place at **1:30-3:15pm on Monday, September 8th**. Other panel speakers lined up will include State Representative Mina Morita, Charlie Morgan of Planning Solutions Inc., and Noelani Kalipi of First Wind, with an invitation being extended also to Catherine Awakuni from the State Division of Consumer Advocacy. Additionally, our keynote speakers include Maurice Kaya (Former Chief Technology Officer for DBEDT), US Senator Daniel K. Inouye, Kevin Kolevar (Asst Secretary in Energy/Electricity at the US Dept of Energy), and State Senator Gary Hooser (Vice-Chair of the State Senate Committee on Energy & Environment). I'm also attaching the latest Agenda and an article on the Conference, for your reference.

Your expertise and insight as the Chairman of The Hawai'i Public Utilities Commission vis-à-vis the advancement of renewable energy technologies in the state will be invaluable to our audience business, community, and government leaders along with our greater residential and business communities. We truly hope you will consider participating on the panel on Legislation & Regulation for Renewable Energy.

Mahalo, in advance, for your consideration, and I look forward to following up with you shortly on your interest and availability.

Best regards,
Susan

cc: Brooke K. Kane

Susan Tai
Director, Kaua'i Economic Dev't Plan
Kaua'i Economic Development Board
4290 Rice Street, Lihu'e, HI 96788
Tel: 808.245.6692 / Fax: 808.246.1089
Email: stal@kedb.com
Website: www.kedb.com

Confidentiality Notice:

This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient,



please contact the sender by reply e-mail and destroy all copies of the original message. **Registration Form_2008-KREC_v006.pdf**



Article-KREC_Kauai Business Report.pdf